

REMARKS

In the last Office Action of June 15, 2006, Claims 1-3, 7, 8, 10-14, 18, 19, 21, 25, 26 and 30-38 were rejected and Claims 4-6, 9, 15-17, 20, 22-24 and 27-29 were objected to.

Applicant filed arguments subsequently and the Examiner provided an Advisory Action mailed December 5, 2005 confirming the earlier rejections.

Applicant has hereby submitted an RCE and further amended the claims.
Reconsideration is requested.

Examiner's Remarks

In the Advisory Action the Examiner indicated that he believes there is, in fact, copy protection or copy prevention in the Schylander reference. The Examiner said in pertinent part "Schylander shows in figure 6 by example of a CD-audio player which is provided with a unit for preventing the reproduction of the additional (CD-I) information as audio information."

Further, the Examiner stated in pertinent part in the Advisory Action, "The applicant argues that the point is to prevent such copying by these readily available readers. The applicant argues that instead, Schylander proposes a special type of player which is inherently not widely available in which he had to invent. The applicant argues that this fails to meet the "data reader" of Claim 1. ...Schylander provides his special player which would satisfactorily play a CD-I type disc. The examiner respectfully disagrees. The examiner asserts that all that is claimed is an audio player. Schylander discloses an audio player capable of playing audio CDs."

Therefore, the Examiner makes two main points, first that Schylander does disclose copy protection or copy prevention. Second that the presenting claims by reciting "audio player" read on the special audio player of Schylander.

Claim Amendments

Applicant has amended each of the independent claims, essentially identically, to better distinguish over Schylander. First, rather than recite “said selected control data being ignored by an audio player,” instead each of the independent claims now recites “said selected control data being ignored by a conventional commercially available CD music player.” This reads on the specification, see page 1 line 31 to page 2; page 1 line 34, and page 4 line 21. This makes it clear that the present invention is intended to be operational with a conventional CD type music player of the type commercially available.

Second, Applicant has added at the end of each independent claim “wherein copying of the audio data is thereby prevented.” This echoes the recitation in the preamble of, e.g., Claim 1 “A method of copy protecting a digital audio compact disc carrying audio data and control data...”.

Each of these amendments clearly distinguishes over Schylander, on its own. The present specification is explicit about disclosing a method of copy protection, see specification page 1, lines 13-26, and especially page 1, lines 25 and 26, “However, the incorrect data renders the CD unplayable by a data reader. This prevents copying of the data on the compact disc.” Of course this is because copying normally can only be done by a data reader, which is more sophisticated than a CD type disc player.

Schylander Does Not Disclosure or Suggest Copy Protection

The Examiner indicated in his Advisory Action that Schylander is a method of copy protection. This is vigorously disputed and hence the rejection is traversed at least on this ground. Further, Claim 1 has been further amended to make it clear the nature of the copy protection, at the end of each independent claim.

See for instance Schylander column 6, lines 1-29 pointing out the nature of the method of Schylander. At column 6, beginning line 1 “Fig. 6 shows by way of example an embodiment of a CD-audio player which is provided with a unit for preventing the reproduction of the additional

(CD-I) information as audio information.” The Examiner, of course, in his Advisory Action pointed to Schylander Figure 6 as being relevant to copy protection. However this figure and the accompanying text make it clear this is not for copy protection, and it does not prevent copying at all. Instead the goal is set forth in the Summary of the Invention of Schylander at column 1, beginning line 57 “It is an object of the invention to provide an audio record carrier in which additional information has been recorded such that the record carrier can be played by a dedicated player which uses the additional information for control of reproduction and which can also be played by means of audio players without resulting in an undesired production of noise caused by the read-out of the additional information.” (Emphasis added.)

Hence the point in Schylander is that the additional information, which is the CD-I data, is present on the disc and normally it might undesirably be treated as audio data by a player. Hence the goal is to avoid playing this additional information as if it were audio data. That is what is described at Schylander column 6. Hence the point in column 6 is not to prevent copying, and it would not prevent copying, but instead the point is to avoid playing the additional information as if it were audio information, by suppressing it. This suppression is done by the muting circuit 67, see Schylander beginning at column 6 line 18. See especially column 6, beginning line 25 “In the event that the additional (CD-I) information is detected as having been read-out, the control unit 68 actuates the muting circuit 67 via a signal line 69 so as to bring the muting circuit 67 in a mode in which it blocks the passage of the digital stereo audio signal.” (Emphasis added). This then provides the result in column 6, beginning line 30 “It is noted that it will be clear to a man skilled in the art that other solutions exist for preventing the reproduction of noise caused by the read-out of the additional (CD-I) information.” (Emphasis added). Hence, again, it is emphasized that the suppressing of the CD-I information is to prevent noise. There is no intent or result which would prevent copying of the audio information.

Hence Schylander not only does not address to the problem of copy protection or copy prevention, he would not provide copy protection or copy prevention even as an unintentional result. Instead he is merely suppressing the noise that would be caused by misinterpretation of the CD-I information on the disc.

Hence clearly Schylander is not a method of copy protecting and does not result in prevention of copying of audio data.

Therefore Claim 1, prior to the current amendments, clearly distinguishes over Schylander at least for this reason and that distinction is further emphasizes at the end of each independent claim, see for instance Claim 1, “wherein copying of the audio data is thereby prevented.” This further emphasizes this distinction over Schylander, which is emphatically not a copy protection or prevention method, and would not provide same, even unintentionally.

Hence for at least this reason, which is the absence of copy protection or copy prevention in Schylander, Claim 1 and the other independent claims distinguish thereover.

Schylander Does Not Use A Conventional Audio Player

The Examiner read the phrase “an audio player” in, for instance, present Claim 1 on the admittedly “special player” of Schylander. The Examiner notes that in fact Schylander discloses a special player in his Advisory Action. However the Examiner believes that the recitation in Claim 1 of “an audio player” reads on the special player of Schylander, because the Examiner said in his Advisory Action “The Examiner asserts that all that is claimed as an audio player.”

It is respectfully submitted that Claim 1, even prior to the present amendments, distinguishes over Schylander in this regard, since the description of the “audio player” in the present specification is clearly in context of a conventional commercially available type CD music audio player. However, the Examiner’s point is taken that conceivably one might deliberately misconstrue the term “audio player” as reading on the Schylander special audio player. Hence the present claims, see for instance Claim 1, have been amended so that instead of saying “said selected control data being ignored by an audio player” Claim 1 now recites, as do the other independent claims, “said selected control data being ignored by a conventional commercially available CD music player...”. As pointed out above, this is well supported in the specification.

As pointed out above, a goal in accordance with the invention is that the inventive copy protected digital audio compact disc will correctly play on such a conventional audio player, but its audio data cannot be read by the data reader so as to prevent copying.

Clearly this is not the case with Schylander, which requires a special audio player. The whole point of Schylander is to address the technical problem, stated above, that a conventional audio player mistakenly reads the CD-I data as if it were music and thereby causes noise, which is undesirable. Therefore, he provides his special inventive player as shown in his Fig. 6, and to which he has directed claims, see for instance his Claim 11. The point of Schylander is to provide a special player needed for playing his CD which will not reproduce the noise, which is the result of playing a CD-I type disc on a conventional audio player.

Hence clearly Claim 1 additionally distinguishes over Schylander as now reciting "said selected control data being ignored by a conventional commercially available CD music player".

(In Claim 1, the subsequent clause as in the other independent claims, has been further amended to conform to the first amendment to Claim 1 so it now recites "such that the player is able to play the audio data").

Therefore for this additional reason Claim 1 and the other independent claims similarly amended additionally distinguish over Schylander.

The various dependent claims are allowable for at least the same reason as the respective base claims.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 136922002700.

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Respectfully submitted,

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